

Fleckner, James O

From: Kenneth Bello [KBello@belloblack.com]
Sent: Wednesday, June 08, 2005 4:23 PM
To: Fleckner, James O
Cc: Comen, Steven J; John Welsh; Josiah Black
Subject: RE: Babcock Borsig Power GmbH v. Babcock Power, Inc., plaintiff's motion for partial summary judgment

Jamie: We are quite concerned that this request is simply to delay a response. In our recent phone conversation, Steve Comen made clear that he did not want to respond to the partial summary judgment on the note until he takes Georg-Peter's deposition, but refused to articulate why that is necessary. We do not agree that the SJ Motion requires any discovery and, if you believe it does, then you should identify that specifically to us, and if we do not agree, file a Rule 56(f) Motion. Given that this request appears to be based on this tactical view, we do not agree to an extension.

If there is some other real reason why you cannot file your response by the 21st, please let me know, and we will consider it. As Steve is well aware, we are not unreasonable in requested fairly sought extensions, and indeed, waited months for your Answer to the Amended Complaint. At the same time, we are not willing to agree to an extension that is intended to achieve some form of unspoken and unarticulated tactical advantage.

From: Fleckner, James O [mailto:JFleckner@goodwinprocter.com]
Sent: Wednesday, June 08, 2005 10:31 AM
To: Kenneth Bello
Cc: Comen, Steven J
Subject: Babcock Borsig Power GmbH v. Babcock Power, Inc., plaintiff's motion for partial summary judgment

Ken - before our emails Tuesday and Wednesday with Lisa Urso, John Welsh had spoken with Steve and me about an extension of time for our response to your motion for partial summary judgment, but nothing was resolved. In his absence, can you confirm for me that we can have a reasonable extension of time to respond to that motion. Currently the response is due June 21. We propose that we be allowed to file the response some point after the status conference on the 30th, so that the schedule for the response can be addressed along with whatever discovery or other case matters are decided at that conference. Jamie

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